



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 5

77 WEST JACKSON BOULEVARD

CHICAGO, IL 60604-3590

NOV 12 2015

REPLY TO THE ATTENTION OF:

SC-5J

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Christi Overbeek
Security Manager
Michigan Turkey Producers, Co-Op, Incorporated
1100 Hall Street SW
Grand Rapids, Michigan 49503

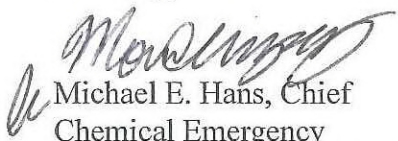
RE: Complaint and Expedited Settlement Agreement
ESA Docket No. RMP-15-ESA-040
Docket No. **CAA-05-2016-0004**

Dear Ms. Overbeek:

Enclosed please find a copy of the fully executed Expedited Settlement Agreement (ESA). The ESA is binding on EPA and Respondent. EPA will take no further action against Respondent for the violations cited in the ESA. The ESA requires no further action on your part.

Please feel free to contact Monika Chrzaszcz at (312) 886-0181, or chrzaszcz.monika@epa.gov, if you have any questions regarding the enclosed document or if you have any other question about the program. Thank you for your assistance in resolving this matter.

Sincerely,



Michael E. Hans, Chief
Chemical Emergency
Preparedness & Prevention Section

Enclosure



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 5

77 WEST JACKSON BOULEVARD
CHICAGO, ILLINOIS 60604-3590

DOCKET NO: RMP-15-ESA-040

CAA-05-2016-0004

This ESA is issued to: Michigan Turkey Producers Co-Op, Incorporated
at: 1100 Hall Street SW, Grand Rapids, Michigan 49503
for violations of Section 112(r)(7) of the Clean Air Act.



EXPEDITED SETTLEMENT AGREEMENT

The United States Environmental Protection Agency, Region 5, and Michigan Turkey Producers Co-Op, Incorporated ("Respondent"), have agreed to the settlement of this action before the filing of a Complaint. EPA and Respondent (jointly "the Parties") have agreed that settling this action without the filing of a complaint or the adjudication of any issue of fact or law is in their interest and in the public interest. This action is thus simultaneously commenced and concluded by this Expedited Settlement Agreement ("ESA") and Final Order. *See* 40 C.F.R. §§ 22.13(b) and 22.18(b)(2)-(3).

This is an administrative action for the assessment of civil penalties instituted pursuant to EPA's authority under Sections 113(a)(3) and (d) of the Clean Air Act ("Act"), 42 U.S.C. § 7413(a)(3) and (d). The Director of the Superfund Division, Region 5, EPA ("Complainant") has been delegated the authority to issue an administrative complaint seeking the assessment of civil penalties for violations of Section 112(r) of the Act, 42 U.S.C. § 7412(r). The Regional Administrator for Region 5 of EPA is authorized by Sections 113(a)(3) and (d)(1) of the Act, 42 U.S.C. §§ 7413(a)(3), and (d)(1), to issue a Final Order ratifying this ESA.

ALLEGED VIOLATIONS

On July 25, 2014, an authorized EPA representative conducted a compliance inspection of Michigan Turkey Producers Co-Op, Incorporated, located at 1100 Hall Street SW, Grand Rapids, Michigan 49503 ("Facility") to determine its compliance with the Risk Management Plan ("RMP") regulations promulgated pursuant to Section 112(r) of the Act, and set forth at 40 C.F.R. Part 68. Based on the July 25, 2014 inspection and documents submitted by Respondent, EPA has determined that Respondent violated the following regulations:

1. 40 C.F.R. § 68.39(a) Respondent failed to maintain records for the worst-case scenarios that included a description of the vessel or pipeline and substance selected as worst case, assumptions and parameters used; the rationale for selection; assumptions including any administrative controls and any passive mitigation that were assumed to limit the quantity that could be release; and the anticipated effect of the controls and mitigation on the release quantity and rate.

2. 40 C.F.R. § 68.39(b) Respondent failed to maintain records for the alternative release scenario that included a description a description of the scenario identified, assumptions and parameters used, the rationale for selection; assumptions including any administrative controls and any passive mitigation that were assumed to limit the quantity that could be release; and the anticipated effect of the controls and mitigation on the release quantity and rate.
3. 40 C.F.R. § 68.39(e) Respondent failed to maintain records that included data used to estimate population and environmental receptors potentially affected.
4. 40 C.F.R. § 68.67e) Respondent failed to address the team's findings and recommendations from the 2011 Process Hazard Analysis in a timely manner.
5. 40 C.F.R. § 68.79(a) Respondent failed to certify that the owner or operator has evaluated compliance at least every three years to verify that procedures and practices developed are adequate and are being followed.
6. 40 C.F.R. § 68.81(a) Respondent failed to investigate each incident which resulted in or could reasonably have resulted in a catastrophic release of a regulated substance.

SETTLEMENT

In consideration of Respondent's full compliance history, its good faith efforts to comply, other factors as justice may require, and upon consideration of the entire record, the parties enter into this ESA in order to resolve any civil penalties for these alleged violations for the total penalty amount of **\$5,400**.

This settlement is subject to the following terms and conditions:

By signing below, Respondent consents to, and is bound by, the terms and conditions of this ESA, including the assessment of the civil penalty set forth above. Respondent admits the jurisdictional allegations in the ESA, and waives any objections that it may have regarding jurisdiction. Respondent waives its right to contest the specific factual allegations contained herein, and neither admits nor denies these specific factual allegations. Respondent acknowledges that pursuant to 40 C.F.R. § 22.15(c), and Section 113(d)(2)(A) of the Act, 42 U.S.C. § 7413(d)(2)(A), it has the right to request a hearing on any material fact, or on the appropriateness of the penalty, but Respondent waives its rights to such a hearing. Respondent also waives its right to appeal this ESA and the accompanying Final Order.

Respondent certifies, subject to civil and criminal penalties for making a false submission to the United States Government, that Respondent has corrected the violations set forth in this ESA, and has sent a cashier's check or certified check (payable to the "Treasurer, United States of America") in the amount of **\$5,400** in payment of the full penalty amount to the following address:

U.S. Environmental Protection Agency
Fines and Penalties
Cincinnati Finance Center
PO Box 979077
St. Louis, MO 63197-9000

The **Docket Number of this ESA must be included on the check.** (The Docket Number is RMP-15-ESA-040.) **CAA-05-2016-0004**

This signed original ESA and **a copy of the check must be sent by certified mail to:**

Monika Chrzaszcz
Chemical Emergency
Preparedness and Prevention Section (SC-5J)
U.S. Environmental Protection Agency
77 West Jackson Boulevard
Chicago, Illinois 60604-3590

Upon Respondent's submission of the signed original ESA and the issuance of the Final Order, Respondent's liability is resolved only for any federal civil penalties due as a result of the facts and violations alleged in this ESA. This ESA, the Final Order, and Respondent's full payment of the civil penalty set forth herein, do not affect the right of EPA to pursue appropriate injunctive, other equitable relief, or criminal sanctions for any violations of law. EPA also does not waive any enforcement authority for any other violation of the Act or any other statute. The issuance of the Final Order does not waive, extinguish, or otherwise affect Respondent's duty to comply with the Act, the regulations promulgated there under, or any other applicable law or requirement.


If the signed original ESA **with an attached copy of the check** is not returned to the **EPA Region 5 office** at the above address in correct form by Respondent within 45 days of the date of Respondent's receipt of this ESA (90 days if an extension is granted), the proposed ESA is withdrawn, without prejudice to EPA's ability to file an enforcement action for the violations identified in this ESA.

This ESA is binding on the Parties signing below.

Each Party to this action shall bear its own costs and fees, if any.

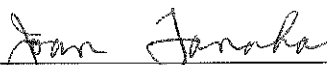
This ESA is effective upon filing with the Regional Hearing Clerk.

FOR RESPONDENT:

Signature: 
Name (print): Christi Fox
Title (print): Security Manager
Respondent

Date: 10-14-15

FOR COMPLAINANT:


Richard C. Karl, Director
Superfund Division

Date: 11/4/15

FINAL ORDER

The foregoing Expedited Settlement Agreement is hereby ratified and incorporated by reference into this Final Order. Respondent is hereby ORDERED to comply with all of the terms of the foregoing Expedited Settlement Agreement, which upon its filing with the Regional Hearing Clerk shall become immediately effective. This Final Order concludes this proceeding pursuant to 40 C.F.R. §§ 22.18 and 22.31.

IT IS SO ORDERED.



Susan Hedman
Regional Administrator

Date: 11/9/15

In the matter of: Michigan Turkey Producers, Co-Op, Incorporated
Docket Number: CAA-05-2016-0004

CERTIFICATE OF SERVICE

I certify that I served a true and correct copy of the foregoing **Expedited Settlement Agreement**, which was filed on November 12, 2015, this day in the following manner to the addressees:

Copy by certified mail
return-receipt requested:

Christi Overbeek
Security Manager
Michigan Turkey Producers, CO-OP, Incorporated
1100 Hall Street SW
Grand Rapids, Michigan 49503

Copy by e-mail to
Complainant:

Steven Kaiser
kaiser.steven@epa.gov

Copy by e-mail to
Regional Judicial Officer:

Ann Coyle
coyle.ann@epa.gov

Dated:

November 12, 2015 

LaDawn Whitehead
Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 5

CERTIFIED MAIL RECEIPT NUMBER(S):

7011 1150 0000 2640 4376